IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Bail Appl..No. 4351 of 2007()

CRIME NO.93/07 OF MANNAR POLICE STATION
CMP.2067/2007 of J.M.F.C.-II, CHENGANNUR

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PETITIONER/12TH ACCUSED

SHIBU, AGED 20 YEARS,
S/O.RAJAN, KANDATHIL VEEDU,
THRIPPERUNTHURA VILLAGE, CHENGITHALA.

BY ADV. SRI.P.HARIDAS
SMT.DEEPA G. PAL

RESPONDENTS: STATE/COMPLAINANTS

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE,
MANNAR POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/07/2007, A/W. BA 4443 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.Nos. 4351 & 4443 of 2007

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Dated this the 23rd day of July, 2007

O R D E R

Applications for regular bail. The petitioners are accused Nos. 2 and 12 in a crime registered, inter alia, under Sections 326 and 307 I.P.C. The crux of the allegations raised is that accused No.1 was running an illicit liquor trade in a tea shop run by him in the name of his wife. The contractor of the local toddy shop had allegedly tipped the officials which led to a search of the premises and registration of a crime against the wife of the first accused. Infuriated by such conduct, the first accused is alleged to have engaged accused 2 to 12 and together they are alleged to have proceeded to the scene of the crime in a vehicle armed with dangerous and deadly weapons. There, they allegedly unleashed a murderous attack on the persons, who were present in the toddy shop shed. Six persons suffered injuries. Three of them suffered grievous injuries. Investigation is in progress. In the F.I.R. the second accused is named. The 12th accused is not named. In the course of the investigation both of them were arrested on 25.6.2007. Investigation is in progress.

2. The first accused came to this court with an application for anticipatory bail. That application was dismissed as per order dt. 25.6.07 in B.A.No. 3597 of 2007. The petitioners pray that they may now be enlarged on bail, they having continued in custody from 25.6.2007. On behalf of the 12th accused it is submitted that he has no criminal antecedents at all. He is not named in the F.I.R. Even at the moment there is no specific allegation against the 12th accused that he had indulged in any specific overt act against any of the victims or even that he had carried any weapons. In these circumstances it is prayed that regular bail may be granted to both the petitioners.

3. The learned Prosecutor vehemently opposes the applications. He submits that the investigation is at a very early stage and has not made any progress. The first accused is still at large. Eventhough his application for anticipatory bail is dismissed, he has not been arrested. It is too early to consider the release of the petitioners on bail. In a serious crime like this, the Investigators may be granted reasonable further time to complete the investigation after the arrest of the accused. The fact that the 12th accused is not named in the F.I.R. or that there is no specific overt act alleged against him may not persuade this Court to treat his case differently as the membership of the 12th accused in the assembly and his involvement in the

process of transporting of the other accused persons armed with weapons to the spot of occurrence and taking them back after the incident was completed, bear eloquent testimony for his membership of the assembly and sharing of the common object.

4. I have considered all the relevant inputs. A detailed discussion about the acceptability of the allegations raised or credibility of the data collected is not necessary at this early stage. I am satisfied that going by the nature and the grievous allegations raised, the consequence of the offence committed, stage of the investigation and the quantum and quality of data collected, the petitioners do not deserve to be enlarged on bail at this stage. I am satisfied that the 12th accused is not entitled to be treated differently. He shall be entitled to approach this court or the learned Sessions Judge for bail again at a later stage of the investigation, not at any rate prior to 30.7.2007. The second accused shall also be entitled to so approach this Court, later not, at any rate, prior to 6.8.2007.

5. These bail applications are accordingly dismissed.

(R. BASANT)
Judge

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